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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,389	04/06/2005	Fukutarou Sekine	38053	4838
52054	7590	12/14/2007		
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER PHUNG, LUAT	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 12/14/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/530,389

Applicant(s)

SEKINE ET AL.

Examiner

Luat Phung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 02 May 2005, 05 June 2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to a letter for patent filed on April 6, 2005 in which claims 1-7 are presented for examination and are pending.

Claims 1-7 are rejected.

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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3. The abstract of the disclosure is objected to because it exceeds the suggested length and reference to "the counting supply unit (13)" should have been "the time supply unit (13)" to be consistent with Fig. 1. Correction is required. See MPEP § 608.01(b).

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 7 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The limitation "program" recited in line 1 is not a process, machine, manufacturer, or composition of matter, or any new and useful improvement thereof because there is no physical structure/connection of computer software recited in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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8. Claims 1, 3 and 5-7 are rejected under U.S.C. 103(a) as being unpatentable over Matsuoka, et al (US 5,535,387) in view of Dockter, et al (EP 0598499 A2).

Regarding claim 1, Matsuoka discloses a data transmission processing apparatus for processing a plurality of data in parallel and synchronously carrying out a transmission processing (abstract) comprising:

a plurality of processing systems which independently process the data, and a plurality of processing system groups having a set of any of the processing systems which is operated at a common time in the processing systems; (Fig. 1, elements 1-1a, 1-1b, 1-1c, 1-1 to 1-n; col. 2, lines 50-63)

a counting unit which counts a plurality of common times corresponding to the respective processing system groups; (Fig. 10, element 4; Fig. 11, element 12; col. 12, lines 41-52; col. 13, lines 13-20)

a counting control unit which starts to count the common time corresponding to one of the processing system groups by the counting unit when receiving transmission processing preparation completion notices from all of the processing systems belonging to the same processing system group. (col. 1, lines 51-56)

Matsuoka does not explicitly disclose a time supply unit which supplies the common time obtained by the counting of the counting unit to all of the processing systems belonging to the corresponding processing system group.

Dockter from the same or similar fields of endeavor discloses a time supply unit which supplies the common time obtained by the counting of the counting unit to all of

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the processing systems belonging to the corresponding processing system group (Fig. 1, element 100; col. 2, lines 41-54).

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Matsuoka's parallel and synchronous system with Dockter's method of counting when receiving completion notices by modifying the system to include the counting control unit. The motivation for doing so would have been to optimize and synchronize parallel operations.

Regarding claim 3, Matsuoka further discloses wherein the counting control unit starts the counting of the common time corresponding to the processing system group to be an object by the counting unit when the counting control unit does not receive any notice from all of the processing systems for a predetermined period of time in the case that a processing system completing a transmission processing preparation upon receipt of the transmission processing preparation completion notice is present and a transmission processing preparation uncompleted processing system which has not received the transmission processing preparation completion notice is present. (col. 11, line 5 to col. 12, line 32).

Regarding claim 5, Matsuoka discloses substantially all of the subject matter as recited above. Matsuoka does not explicitly disclose wherein a data processing in the processing system is a transmission processing for reproducing the data. Dockter from the same or similar fields of endeavor discloses the system is used for reproducing the data (recording media per abstract). Examiner takes official notice that it is well known to one of ordinary skill in the art that reproducing data is synonymous to recording

known data. Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Matsuoka's parallel and synchronous system with Dockter's use of reproducing data by recording using known data. The motivation for doing so would have been to produce a useful and practical application for the system.

Regarding claim 6, Matsuoka discloses substantially all of the subject matter as recited above. Matsuoka does not explicitly disclose wherein a data processing in the processing system is a transmission processing for recording the data. Dockter from the same or similar fields of endeavor discloses the system is used for recording the data (recording media per abstract). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Matsuoka's parallel and synchronous system with Dockter's use of recording data by using the system for recording. The motivation for doing so would have been to produce a useful and practical application for the system.

Regarding claim 7, Matsuoka discloses substantially all of the subject matter as recited above. Matsuoka does not explicitly disclose a data transmission processing program for causing each function of all or a part of components of the data transmission processing apparatus according to any one of claims 1 to 6 to be executed by a computer. Dockter from the same or similar fields of endeavor discloses a computer-based data transmission system (abstract). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement Matsuoka's parallel and synchronous system using Dockter's computer. The motivation

for doing so would have been to lower development cost due to ubiquitous of computers and related resources.

9. Claim 2 is rejected under U.S.C. 103(a) as being unpatentable over Matsuoka, et al (US 5,535,387) and Dockter, et al (EP 0598499 A2), and further in view of Watanabe, et al (US 6,438,634).

Regarding claim 2, Matsuoka and Dockter substantially disclose all of the subject matter as recited in the preceding paragraph. Matsuoka further discloses wherein the case that a transmission processing preparation uncompleted processing system which has not received the transmission processing preparation completion notice is present in the processing systems, the counting control unit starts the counting of the common time corresponding to the processing system group including one of the processing systems completing a transmission processing preparation by the counting unit when receiving a notice from the same processing system upon receipt of the transmission processing preparation completion notice. (Fig. 5 and 6; col. 5, lines 36-58; col. 8, lines 52 to col. 10, line 18)

Matsuoka and Dockter do not explicitly disclose the notice that data stored in a data holding region reach a predetermined constant amount.

Watanabe from the same or similar fields of endeavor discloses notification when a buffer in a processor is full (col. 5, lines 43-61). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Matsuoka and Dockter's system with Watanabe's method for reporting buffer status by sending a

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notice when the buffer reaches a certain size. The motivation for doing so would have been to ensure there's sufficient resource for processing data.

10. Claim 4 is rejected under U.S.C. 103(a) as being unpatentable over Matsuoka, et al (US 5,535,387) and Dockter, et al (EP 0598499 A2), and further in view of Bell, et al (US 5,325,500).

Regarding claim 3, Matsuoka and Dockter substantially disclose all of the subject matter as previously recited. Matsuoka further discloses wherein the counting control unit stops the counting of the common time to be an object by the counting unit while the time supply unit supplies the common time to the respective processing systems; and wherein the counting control unit restarts the counting of the common time to be the object by the counting unit while the time supply unit supplies the common time to the respective processing systems. (col. 11, line 5 to col. 12, line 32)

Matsuoka and Dockter do not explicitly disclose:

when the counting control unit receives a transmission processing disable notice from any one of the processing systems during a transmission processing, and

when the counting control unit receives a transmission processing enable notice from the same processing system again.

Bell from the same or similar fields of endeavor discloses counting to keep track of the processing units currently in service in a parallel processing system (col. 15, lines 57 to col. 16, line 46; col. 25, lines 45-54). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Matsuoka and Dockter's system with Bell's method of monitoring status of processors by implementing

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a counter that will update when a processor becomes enabled or disabled. The motivation for doing so would have been to optimize usage of all the processors in the parallel system.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form 892).

12. Examiner's Note: Examiner has cited particular paragraphs, columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and, also to verify and ascertain the metes and bounds of the Claimed invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luat Phung whose telephone number is 571-270-3126.

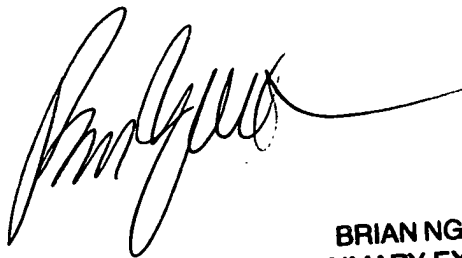
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The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LP

A handwritten signature in black ink, appearing to read 'Brian Nguyen', with a long horizontal flourish extending to the right.

**BRIAN NGUYEN
PRIMARY EXAMINER**